



Arizona Regulatory Board of Physician Assistants

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Janet Napolitano
Governor
Albert Ray Tuttle, P.A.-C
Chairman
Timothy C. Miller, J.D.
Executive Director

DRAFT MINUTES FOR REGULAR SESSION MEETING Held at 1:00 p.m. on Wednesday, August 23, 2006 9535 E. Doubletree Ranch Road - Scottsdale, Arizona 85258

Board Members

Albert Ray Tuttle, P.A.-C, Chair
Joan M. Reynolds, P.A.-C, Vice Chair
Randy D. Danielsens, Ph.D., P.A.-C
Michael E. Goodwin, P.A.
James Edward Meyer, M.D.
Sigmund G. Popko, Public Member
Anna Marie Prassa, Public Member
Peter C. Wagner, D.O.
Kelli M. Ward, D.O., M.P.H., FACOF
Barry D. Weiss, M.D., FAF

Wednesday, August 23, 2006

CALL TO ORDER

Albert Ray Tuttle, P.A.-C., Chair

ROLL CALL

The following Board Members were present: Albert Ray Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsens, Ph.D., P.A.-C, Michael E. Goodwin, P.A., James Edward Meyer, M.D., Sigmund G. Popko, Anna Marie Prassa, Peter C. Wagner, D.O., and Kelli M. Ward, D.O., M.P.H., FACOF. The following Board Member was not present: Barry D. Weiss, M.D., FAF.

CALL TO THE PUBLIC

Statements issued during the call to the public appear beneath the case referenced.

Executive Director's Report

Licensing Office Report

There will be free Continuing Medical Education (CME) available soon on the Board's web site that will cover the Board's statutes and rules. There will be questions included pertaining to the role of supervising physicians and supervising agents.

Investigations Office Report

Staff has been reaching the Agency's goal for completing an investigation, averaging about 110 days for PA Board cases.

2007 Meeting Dates

MOTION: Kelli M. Ward, D.O., M.P.H., FACOF moved to approve the 2007 Meeting Dates.

SECONDED: Randy D. Danielsens, Ph.D., P.A.-C

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

FY 2005-2006 Annual Report

Timothy Miller, J.D., Executive Director asked the Board to approve the FY 2005-2006 Annual Report for submission to the Governor's office. The Annual Report indicated how the Agency's investigations were progressing and how the backlog had been reduced to a manageable level. The Annual Report also outlined the number of participants in the Physician Health Program, including two physician assistant participants.

MOTION: Randy D. Danielsens, Ph.D., P.A.-C moved to approve the Annual Report with corrections to Member's biographies.

SECONDED: Peter C. Wagner, D.O.

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent
MOTION PASSED.

FY 2007-2008 Strategic Plan

Timothy Miller, J.D., Executive Director gave the FY 2007-2008 Strategic Plan to the Board for informational purposes to show the Agency's progress in the form of performance measures.

Approval of Minutes

James Edward Meyer, M.D. noted that page five of the Minutes should read "Motion Passed" rather than "Failed".

MOTION: Randy D. Danielsen, Ph.D., P.A.-C moved to approve the May 17, 2006 Regular Session Minutes, including Executive Session Minutes with amendments.

SECONDED: Michael E. Goodwin, P.A.-C

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

ADVISORY LETTERS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN ASSISTANT		LIC. #	RESOLUTION
1.	PA-05-0019A	ARBOPA	ANITA V. GREGORY, P.A.	1174	Dismiss

Tina Geiser, Assistant Manager Office of Investigations summarized the case for the Board. Anita Gregory, PA was placed on Probation with the Radiologic Board for untimely filing of her application. Ms. Geiser noted although this matter concerned another State Board, it was of concern because a requirement of licensure with the Arizona Regulatory Board of Physician Assistants is to comply with all State Rules.

Kelli M. Ward, D.O., M.P.H., FACOFP noted the Radiologic Board failed to timely inform PA Gregory her application was incomplete and because of that, the application was delayed in being submitted timely. Dr. Ward found it was not entirely PA Gregory's fault that her application was submitted late.

MOTION: Kelli M. Ward, D.O., M.P.H., FACOFP moved to Dismiss the case.

SECONDED: Michael E. Goodwin, P.A.-C

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN ASSISTANT		LIC. #	RESOLUTION
2.	PA-05-0020A	A.T.	BRETT R. HAARMANN, P.A.	2941	Issue an advisory letter for performing healthcare tasks without filing a Notice of Supervision and without receiving approval of a Notification of Supervision from the Board.
3.	PA-05-0020B	A.T.	RICHARD V. RIMKUS, P.A.	2056	Issue an advisory letter for performing healthcare tasks without filing a Notice of Supervision and without receiving approval of a Notification of Supervision from the Board.
4.	PA-05-0020C	A.T.	MATTHEW L. TREMAYNE, P.A.	2505	Issue an advisory letter for performing healthcare tasks without filing a Notice of Supervision and without receiving approval of a Notification of Supervision from the Board.

Vicki Johansen, Senior Medical Investigator summarized three cases for the Board: PA-05-0020A Brett Haarman, PA, PA-05-0020B Richard Rimkus, PA and PA-05-0020C Matthew Tremayne, PA.

The allegation in these cases was that the three physician assistants were working and assisting in surgery without a supervising physician. Albert Ray Tuttle, P.A.-C thought the cases may have been raised without merit and could have been an internal power struggle and should be considered for dismissal.

Kelli M. Ward, D.O., M.P.H., FACOFP spoke against a recommendation for dismissal, stating the PAs should be held accountable to follow the Board Rules for approval of supervising physicians. James Edward Meyer, M.D. said this case indicated the need for the clarity for both physicians and physician assistants on how a supervisory relationship should work in a hospital setting. Dr. Ward noted there are a lot of PAs who are starting their own businesses and the Rules need to be re-addressed to more clearly define the role of a supervisory relationship. Michael E. Goodwin, P.A.-C found it mitigating that these three PAs have said they now understand the role of a supervising physician and will maintain compliance with the standards.

MOTION: James Edward Meyer, M.D. moved to issue an Advisory Letter for performing healthcare tasks without filing a Notice of Supervision and receiving approval of a Notification of Supervision from the Board.

SECONDED: Kelli M. Ward, D.O., M.P.H., FACOFP

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

Several Board Members expressed their concerns about physicians and physician assistants needing clarity of the guidelines of supervision. Dr. Meyer noted the Rules should be addressed but in the interim, a statement should be issued from the Board. PA Tuttle noted the way the Board ruled in this case would impact many PAs who needed to be made aware if they were violating the law.

Christine Cassetta, Board Legal Counsel said the statute is clear that a Supervising Agent is to be used only when a Supervising Physician is not immediately available. Ms. Cassetta said the Board is planning to do some newsletters and press releases on this issue and the Board could also issue a Substantive Policy Statement while the Rules drafting progresses. PA Tuttle suggested this topic be discussed by the PA Rules Subcommittee for preliminary work and presentation to the full Board for approval.

OTHER BUSINESS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	RESOLUTION
1.	PA-04-0048A	ARBOPA	KEVIN EARLYWINE, P.A.-C	2140	Accept Draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure for failing to maintain adequate patient records, failing to affix "P.A.-C" to charts, inappropriate prescribing of opiates, failing to provide information to the Board in a timely manner, for not entering into a pain contract with a patient, for prescribing medications before receiving Board approval of supervising physician and for failing to conduct urine screens on a patient to whom he was prescribing opiates.

Mr. Andrew Plattner was present and spoke on behalf of Kevin Earlywine, P.A.-C during the call to the public. Mr. Plattner said the Findings of Fact in the Board Order were not substantiated. Mr. Plattner said the Board provided him no substantiation that PA Earlywine's records were incomplete. Secondly, PA Earlywine only failed to affix the initials "PA" during a short 3-4 week period. Additionally, PA Earlywine reduced the patient's medications and it was other physicians who over prescribed for the patient. Mr. Plattner said not entering into a pain contract is not a violation of a law and the law for a supervising physician does not clearly say the physician has to see the patient. Mr. Plattner said the Board was over reaching to issue a Decree of Censure for deviations that do not exist.

Christine Cassetta, Board Legal Counsel advised the Board they were able to sustain a deviation in not obtaining a pain contract because, although it was not specifically listed as a violation of statute, it was below the standard of care.- which is a violation of statute.

Suzann Grabe, Licensing Office Manager said PA Earlywine complied with the Board's Order to obtain a new supervising physician. The new supervising physician's office is next door to PA Earlywine's office and the two will be combining offices by October. Ms. Grabe said it was made very clear to the new supervising physician the problems the Board had with PA Earlywine's prior supervising physician as outlined in the Minutes from the May 17, 2006 Board Meeting, and the Minutes had been forwarded to the new supervisor. Kelli M. Ward, D.O., M.P.H., FACOFP said it was not the Board's intent to approve a distant supervisory-relationship again. James Edward Meyer, M.D. said he felt uncomfortable with the supervising physician being located next door to PA Earlywine. Dr. Ward said the geographic location of the supervising physician should be scrutinized before approval and should be evaluated on an individual basis.

MOTION: James Edward Meyer, M.D. moved to accept the Draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure for failing to maintain adequate patient records, failing to affix "P.A.-C" to charts, inappropriate prescribing of opiates, failing to provide information to the Board in a timely manner, for not entering a pain contract with a patient, for prescribing medications before receiving Board approval of supervising physician and for failing to conduct urine screens on a patient to whom he was prescribing opiates.

SECONDED: Kelli M. Ward, D.O., M.P.H., FACOFP

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

Michael E. Goodwin, P.A. instructed Staff to conduct a chart review once PA Earlywine was established with his new supervising physician to confirm the supervisory relationship is appropriate. Albert Ray Tuttle, P.A.-C asked that this matter be reported by the November 15, 2006 Board Meeting and that, a month prior to the meeting, a chart review be provided to the Board for review. The chart review should show if the supervising physician is or is not delegating responsibilities outside of those responsibilities that that he/she would not also perform.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	RESOLUTION
2.	PA-06-0004A	ARBOPA	LEON GARZA, P.A.-C	2619	Dismiss

Lorraine Brown, Monitoring Office summarized the case for the Board. She stated that at a previous Board meeting the Board asked that a case be opened and ordered Leon Garza, P.A. to undergo a Physician Assessment and Clinical Evaluation (PACE). Overall PA Garza performed well on the evaluation and there were no concerns regarding his capability to be a physician assistant. After Staff reviewed the PACE results they had no further concerns and therefore did not order a psychiatric evaluation.

MOTION: Randy D. Danielsen, Ph.D., P.A.-C moved to dismiss the case.

SECONDED: Joan M. Reynolds, P.A.-C

VOTE: 12-yay, 0-nay, 0-abstain, 0-recuse, 0-absent

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
1.	JOSEPH MAIDL, P.A.		3300	Approve request for CME extension until October 1, 2006.

Suzann Grabe, Licensing Office Manager summarized the case for the Board. PA Maidl had been unable to complete his Continuing Medical Education (CME) and was requesting an extension. Kelli M. Ward, D.O., M.P.H., FACOFP noted there is free CME available and PA Maidl had plenty of time to obtain it. The Board noted PA Maidl had requested the extension in a timely manner and noted his license did not expire until October 1, 2006.

Joan M. Reynolds, P.A.-C said if the CME extension was approved, PA Maidl would have to complete the next set of required CME for the current renewal period, although the extension would overlap into the new renewal period.

MOTION: Joan M. Reynolds, P.A.-C moved to approve request for CME extension until October 1, 2006.

SECONDED: Randy D. Danielsen, Ph.D., P.A.-C

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

FORMAL INTERVIEWS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
1.	PA-05-0023A	ARBOPA MICHAEL C. WHITE, P.A.	2171	Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand for unprofessional conduct.

Michael C. White, P.A. was present with counsel Mr. Paul Giancola.

Vicki Johansen, Senior Medical Investigator summarized the case for the Board. The Gilbert Police Department notified the Board PA White had prescribed controlled substances for a patient using a physician's script pad and a physician's Drug Enforcement Administration (DEA) number. At the time, PA White was not working under the supervision of a Board approved supervising physician. Additionally, PA White used Dr. Van Helder's name in conjunction with his business although Dr. Van Helder was not associated with the business. PA White had also asked the Board to approve several supervising agents without his supervising physician's (Dr. Van Helder) knowledge.

PA White said when he examined the patient in this case he misunderstood the criteria of a supervising physician, supervising agent and not being able to prescribe controlled substances under another physician's DEA number. PA White said he believed that after Dr. Van Helder was no longer his supervising physician, he could continue seeing patients under the supervision of the supervising agents. PA White said that at the time when he performed the examination for the patient, he understood Dr. Emerson to be his supervisor and now understands the agents are not his supervising physician. PA White said he used Dr. Emerson's prescription pad because Dr. Emerson gave him the pad and told him he could use it. PA White said that, since this incident, he is now aware of the Rules and for the past four years has abided by them.

James Edward Meyer, M.D. led the questioning. Dr. Meyer noted PA White's testimony was that Dr. Van Helder was aware of his supervising agents; however Dr. Van Helder claimed he was unaware of the agents. Dr. Meyer noted that PA White created letterhead and prescription pads with a business name no associated with Dr. Van Helder and continued to do so for five months after he had been asked to stop by Dr. Van Helder.

Mr. Giancola said PA White incorrectly thought Dr. Emerson could continue as his supervising agent and has since corrected his shortcomings. In actuality, PA White was not practicing without supervision, even though the proper paperwork had not been submitted to the Board.

Randy D. Danielsen, Ph.D., P.A.-C noted PA White admitted he did not understand supervisor relationships, and agreed he inappropriately prescribed and inappropriately used another physician's prescription pad. PA White admitted Dr. Van Helder did not meet with him on a weekly basis to discuss patient care and he admitted he inappropriately placed Dr. Van Helder's name on his Letterhead.

MOTION: James Edward Meyer, M.D. moved for a finding of Unprofessional Conduct in violation of A.R.S. §32-2501 (21)(a), A.R.S. §32-2532 (A), A.R.S. §32-2532 (B), A.R.S. §32-2534 (A), A.R.S. §32-2501 (21)(c), A.R.S. §32-2501 (21)(i), A.R.S. §32-2501 (21)(x), and A.R.S. §32-2501 (21)(gg).

SECONDED: Anna Marie Prassa

Randy D. Danielsen, Ph.D., P.A.-C spoke against sustaining the violation of fraudulent advertising stating he did not believe having Dr. Van Helder's name on the letterhead constituted advertising.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

Peter C. Wagner, D.O. said he found many concerning things in this case, but they did not rise to the level of a Suspension of license as recommended by Staff. Dr. Wagner found it mitigating that PA White had no prior discipline from the Board and there were no quality of care issues in this case. Kelli M. Ward, D.O., M.P.H., FACOFP agreed that a Suspension of license was too severe in this case.

MOTION: James Edward Meyer, M.D. moved to Draft Findings of Fact, Conclusions of Law and Order for a Decree of Censure for unprofessional conduct.

SECONDED: Peter C. Wagner, D.O.

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Sigmund Popko, The following Board Members voted against the motion: Albert Ray Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D.,

P.A.-C, Michael E. Goodwin, P.A., James Edward Meyer, M.D., Anna Marie Prassa, Peter C. Wagner, D.O., and Kelli M. Ward, D.O., M.P.H., FACOFP The following Board Member was not present: Barry D. Weiss, M.D., FAAFP

VOTE: 1-yay, 8-nay, 0-abstain, 0-recuse, 1-absent

MOTION FAILED.

Dr. Danielsen and Kelli M. Ward, D.O., M.P.H., FACOFP disagreed with the motion stating this case did not meet the criteria for Decree of Censure. Dr. Meyer felt this case merited a higher level of discipline because PA White created his own business that included Dr. Van Helder's name on the letterhead and he refused to change the letterhead after being asked by Dr. Van Helder.

MOTION: Randy D. Danielsen, Ph.D., P.A.-C moved to Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand for unprofessional conduct.

SECONDED: Michael E. Goodwin, P.A.-C

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Albert Ray Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, Michael E. Goodwin, P.A., James Edward Meyer, M.D., Anna Marie Prassa, Sigmund Popko, Peter C. Wagner, D.O., and Kelli M. Ward, D.O., M.P.H., FACOFP The following Board Member was not present: Barry D. Weiss, M.D., FAAFP

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

Motion: Randy D. Danielsen, Ph.D., P.A.-C moved to refer Dr. Van Helder to the Arizona Medical Board regarding inadequate and inappropriate supervision of a physician assistant.

Seconded: Michael E. Goodwin, P.A.

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	RESOLUTION
2.	PA-05-0028A	ARBOPA PETER L. TRETHEWEY, P.A.-C	2138	Dismiss

Peter Trethewey, P.A.-C was present without legal counsel.

Kelly Sems, M.D., Internal Medical Consultant summarized the case for the Board. PA Trethewey failed to recognize, diagnose and evaluate the nephrotic syndrome in a patient until one year after the onset of findings leading to a delay in diagnosis and development of renal failure necessitating hemodialysis. Additionally, the medication the patient was on was not recognized by PA Trethewey as a potential aggravator or cause of the patient's deteriorating condition.

Kelli M. Ward, D.O., M.P.H., FACOFP led the questioning. PA Trethewey said as the patient's blood pressure was rising, he brought it to his supervising physician's attention, however he failed to document such. PA Trethewey said his employer restricted him from treating anything other than non-rheumatic diseases. PA Trethewey said the patient's primary care physician ordered lab work that showed evidence of nephrotic syndrome. However, PA Trethewey did not obtain the results of the lab work from the primary care physician until a year later. Dr. Ward commented the physician ordering the test should be responsible for the results.

PA Trethewey said he now refers such patients to specialists and also dictates better medical notes. PA Trethewey said he has practiced for 28 years and has had only received one other complaint and it was dismissed. He said he rendered good care to this patient, but he did not protect himself by dictating better notes. He said this case showed a failure of dictation rather than a failure of good medical practice.

Dr. Ward said the primary care physician had the major responsibility in this case because he ordered the test results.

MOTION: Kelli M. Ward, D.O., moved for a finding of Unprofessional Conduct in violation of A.R.S. §32-2501 (21)(j).

SECONDED: Anna Marie Prassa

Peter C. Wagner, D.O. and James Edward Meyer, M.D. said the believed PA Trethewey practiced within the rheumatologic parameters. Michael E. Goodwin, P.A. disagreed saying it is a physician assistant's responsibility to let the treating physician know of a patient's progressing symptoms.

Dr. Sems agreed PA Trethewey's notes were good, however, he failed to practice within the rheumatologic parameters in failing to recognize nephrotic syndrome. Dr. Sems said that in a rheumatology practice it is important to recognize and address such a condition by bringing it to the attention of the supervising physician.

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Sigmund Popko, Kelli M. Ward, D.O., M.P.H., FACOFP The following Board Members voted against the motion: Albert Ray Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, Michael E. Goodwin, P.A., James Edward Meyer, M.D., Sigmund Popko, J.D., Anna Marie Prassa, and Peter C. Wagner, D.O., The following Board Member was not present: Barry D. Weiss, M.D., FAAFP

VOTE: 2-yay, 7-nay, 0-abstain, 0-recuse, 1-absent

MOTION FAILED.

MOTION: Michael E. Goodwin, P.A. moved to Dismiss the case.

SECONDED: Joan M. Reynolds, P.A.-C

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Albert Ray Tuttle, P.A.-C, Joan M. Reynolds, P.A.-C, Randy D. Danielsen, Ph.D., P.A.-C, Michael E. Goodwin, P.A., James Edward Meyer, M.D., Sigmund Popko,,

Anna Marie Prassa, Peter C. Wagner, D.O., and Kelli M. Ward, D.O., M.P.H., FACOFP The following Board Member voted against the motion: **Sigmund Popko, J.D.** The following Board Member was not present: **Barry D. Weiss, M.D., FAAFP**
VOTE: 8-yay, 1-nay, 0-abstain, 0-recuse, 1-absent
MOTION PASSED.

The Meeting adjourned at 4:21p.m.



Timothy C. Miller, J.D., Executive Director